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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VTT TECHNICAL RESEARCH CENTRE OF
FINLAND LTD.,

Plaintiff,

v.

SITIME CORPORATION,

Defendant.

Case No. 4:19-cv-1174-YGR

STIPULATED PROTECTIVE ORDER

As Modified by the Court

1 **1. PURPOSES AND LIMITATIONS**

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.
5 Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated
6 Protective Order. The parties acknowledge that this Order does not confer blanket protections on
7 all disclosures or responses to discovery and that the protection it affords from public disclosure
8 and use extends only to the limited information or items that are entitled to confidential treatment
9 under the applicable legal principles. The parties further acknowledge, as set forth in Section 14.4,
10 below, that this Stipulated Protective Order does not entitle them to file confidential information
11 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards
12 that will be applied when a party seeks permission from the court to file material under seal.

13 **2. DEFINITIONS**

14 2.1. Challenging Party: a Party or Non-Party that challenges the designation of
15 information or items under this Order.

16 2.2. "CONFIDENTIAL" Information or Items: information (regardless of how it
17 is generated, stored or maintained) or tangible things that qualify for protection under
18 Federal Rule of Civil Procedure 26(c).

19 2.3. Counsel (without qualifier): Outside Counsel of Record and House Counsel
20 (as well as their support staff).

21 2.4. Designating Party: a Party or Non-Party that designates information or
22 items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or
23 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," or "HIGHLY
24 CONFIDENTIAL – SOURCE CODE."

25 2.5. Disclosure or Discovery Material: all items or information, regardless of the
26 medium or manner in which it is generated, stored, or maintained (including, among other
27 things, testimony, transcripts, and tangible things), that are produced or generated in
28 disclosures or responses to discovery in this matter.

1 2.6. Expert: a person with specialized knowledge or experience in a matter
2 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an
3 expert witness or as a consultant in this action, (2) is not a past or current employee of a
4 Party or of a Party's competitor, and (3) at the time of retention, is not anticipated to
5 become an employee of a Party or of a Party's competitor. The term "Expert" includes
6 that person's support staff.

7 2.7. "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information
8 or Items: extremely sensitive "Confidential Information or Items," disclosure of which to
9 another Party or Non-Party would create a substantial risk of serious harm that could not
10 be avoided by less restrictive means.

11 2.8. "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items:
12 extremely sensitive "Confidential Information or Items" representing computer code in
13 electronic or text form, associated comments, listings, revision histories, formulas,
14 engineering specifications, structural diagrams, or schematics that define or otherwise
15 describe in detail the algorithms or structure of computer hardware or software designs, the
16 disclosure of which to another Party or Non-Party would create a substantial risk of serious
17 harm that could not be avoided by less restrictive means. "HIGHLY CONFIDENTIAL –
18 SOURCE CODE" information also includes Register Transfer Level (RTL) files; netlist
19 files; VHDL; Verilog or other hardware description language files; digital signal processor
20 ("DSP") files; Graphic Database System ("GDS") files; formulas that constitute trade
21 secrets; design tapeout files; design review files; or other electronic files that define or
22 otherwise detail proprietary and/or trade secret software algorithms or structure. For
23 clarity, "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items does not
24 include .pdf documents (or documents in a similar format) that only describe or illustrate
25 semiconductor structures and layouts, circuit schematics, circuit layouts, circuit element
26 placement, circuit packaging, or external chip connections.

27 2.9. House Counsel: attorneys who are employees of a party to this action.
28 House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10. Non-Party: any natural person, partnership, corporation, association, or other legal entity not named as a Party to this action.

2.11. Outside Counsel of Record: attorneys and their staff who are not employees of a party to this action but are retained to represent or advise a party to this action and have appeared in this action on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

2.12. Party: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.13. Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this action.

2.14. Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.15. Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

2.16. Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material. However, the protections conferred by this Stipulation and Order do not cover the following information: (a) any information that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a

1 result of publication not involving a violation of this Order, including becoming part of the public
2 record through trial or otherwise; and (b) any information known to the Receiving Party prior to
3 the disclosure or obtained by the Receiving Party after the disclosure from a source who obtained
4 the information lawfully and under no obligation of confidentiality to the Designating Party. Any
5 use of Protected Material at trial shall be governed by a separate agreement or order.

6 **4. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations imposed by this
8 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
9 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
10 and defenses in this action, with or without prejudice; and (2) final judgment herein after the
11 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
12 including the time limits for filing any motions or applications for extension of time pursuant to
13 applicable law.

14 **5. DESIGNATING PROTECTED MATERIAL**

15 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
16 or Non-Party that designates information or items for protection under this Order must take care to
17 limit any such designation to specific material that qualifies under the appropriate standards. To
18 the extent it is practical to do so, the Designating Party must designate for protection only those
19 parts of material, documents, items, or oral or written communications that qualify – so that other
20 portions of the material, documents, items, or communications for which protection is not
21 warranted are not swept unjustifiably within the ambit of this Order.

22 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
23 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
24 unnecessarily encumber or retard the case development process or to impose unnecessary
25 expenses and burdens on other parties) expose the Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that it designated
27 for protection do not qualify for protection at all or do not qualify for the level of protection
28

1 initially asserted, that Designating Party must promptly notify all other parties that it is
2 withdrawing the mistaken designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
4 (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered,
5 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
6 designated before the material is disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents, but
9 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
10 affix the legend “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
11 ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE” to each page that contains protected
12 material.

13 A Party or Non-Party that makes original documents or materials available for inspection
14 need not designate them for protection until after the inspecting Party has indicated which material
15 it would like copied and produced. During the inspection and before the designation, all of the
16 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –
17 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants
18 copied and produced, the Producing Party must determine which documents, or portions thereof,
19 qualify for protection under this Order. Then, before producing the specified documents, the
20 Producing Party must affix the appropriate legend (“CONFIDENTIAL,” “HIGHLY
21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE
22 CODE.”) to each page that contains Protected Material.

23 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
24 the Designating Party identify on the record, before the close of the deposition, hearing, or other
25 proceeding, all protected testimony and specify the level of protection being asserted. When it is
26 impractical to identify separately each portion of testimony that is entitled to protection and it
27 appears that substantial portions of the testimony may qualify for protection, the Designating Party
28 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right

1 to have up to 21 days after receipt of the transcript to identify the specific portions of the
2 testimony as to which protection is sought and to specify the level of protection being asserted.
3 Alternatively, a Designating Party may specify, at the deposition or up to 21 days after the
4 transcript is received if that period is properly invoked, that the entire transcript shall be treated as
5 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or
6 “HIGHLY CONFIDENTIAL – SOURCE CODE.” In either case, only those portions of the
7 testimony that are appropriately designated for protection within the 21 days after the receipt of
8 the transcript shall be covered by the provisions of this Stipulated Protective Order.

9 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
10 other proceeding to include Protected Material so that the other parties can ensure that only
11 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
12 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
13 shall not in any way affect its designation as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL –
14 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE CODE.”

15 Transcripts containing Protected Material shall have an obvious legend on the title page
16 that the transcript contains Protected Material, and the title page shall be followed by a list of all
17 pages (including line numbers as appropriate) that have been designated as Protected Material and
18 the level of protection being asserted by the Designating Party. The Designating Party shall inform
19 the court reporter of these requirements. Any transcript that is prepared before the expiration of a
20 21-day period for designation shall be treated during that period as if it had been designated
21 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise
22 agreed. After the expiration of that period, the transcript shall be treated only as actually
23 designated.

24 (c) for information produced in some form other than documentary and for any
25 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
26 container or containers in which the information or item is stored the legend “CONFIDENTIAL,”
27 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL –
28 SOURCE CODE.” If only a portion or portions of the information or item warrant protection, the

Producing Party, to the extent practicable, shall identify the protected portion(s) and specify the level of protection being asserted.

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order provided that the Producing Party also promptly reproduces the information or items with the proper designation.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing written notice of each designation it is challenging and describing the basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite that the challenge to confidentiality is being made in accordance with this specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in voice to voice dialogue; other forms of communication are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the next stage of the challenge process only if it has engaged in this meet and confer process first or establishes that

1 the Designating Party is unwilling to participate in the meet and confer process in a timely
2 manner.

3 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
4 intervention, the parties shall follow the Court's Standing Order in Civil Cases regarding Discovery
5 and Discovery Motions. The parties may file a joint letter brief regarding retaining confidentiality
6 within 21 days of the initial notice of challenge or within 14 days of the parties agreeing that the
7 meet and confer process will not resolve their dispute, whichever is earlier. Failure by a Designating
8 Party to file such discovery dispute letter within the applicable 21- or 14-day period (set forth above)
9 with the Court shall automatically waive the confidentiality designation for each challenged
10 designation. If, after submitting a joint letter brief, the Court allows that a motion may be filed, any
11 such motion must be accompanied by a competent declaration affirming that the movant has
12 complied with the meet and confer requirements imposed in the preceding paragraph. The Court,
13 in its discretion, may elect to transfer the discovery matter to a Magistrate Judge.

14 In addition, the parties may file a joint letter brief regarding a challenge to a confidentiality
15 designation at any time if there is good cause for doing so, including a challenge to the designation
16 of a deposition transcript or any portions thereof. If, after submitting a joint letter brief, the Court
17 allows that a motion may be filed, any motion brought pursuant to this provision must be
18 accompanied by a competent declaration affirming that the movant has complied with the meet and
19 confer requirements imposed by the preceding paragraph. The Court, in its discretion, may elect to
20 refer the discovery matter to a Magistrate Judge.

21 The burden of persuasion in any such challenge proceeding shall be on the Designating
22 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
23 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
24 Unless the Designating Party has waived the confidentiality designation by failing to file a letter
25 brief to retain confidentiality as described above, all parties shall continue to afford the material in
26 question the level of protection to which it is entitled under the Producing Party's designation until
27 the court rules on the challenge.
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1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
3 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
4 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
5 the categories of persons and under the conditions described in this Order. When the litigation has
6 been terminated, a Receiving Party must comply with the provisions of Section 15 (FINAL
7 DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a location and in
9 a secure manner that ensures that access is limited to the persons authorized under this Order.
10 Electronic documents shall be stored in a manner where proper authentication credentials are
11 required for access. For Outside Counsel, the user's network credentials for their employer's
12 network shall be deemed proper authentication credentials. Protected Materials provided to
13 Experts approved under this Order shall be stored by the Expert only on password protected
14 media. To the extent any party herein must include Protected Material of another party in materials
15 transmitted electronically, the materials containing Protected Material shall be password protected
16 in any emails, or shall be served via secure FTP (with the files to be downloaded also encrypted)
17 or similar secure download mechanism. Notwithstanding anything to the contrary in this Order,
18 materials designated as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" shall only
19 be transmitted via secure FTP and in such a manner that such Protected Materials are also
20 password-protected (such as via an encrypted zip file) and the transmission is encrypted with 128-
21 bit file encryption and the password (which shall be at least eight characters in length and include
22 lowercase, uppercase and special characters) is communicated by telephone or by a separate email.

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
24 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
25 information or item designated "CONFIDENTIAL" only to:
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1 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
2 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
3 information for this litigation;

4 (b) the officers, directors, and employees (including House Counsel) of the
5 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
6 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

7 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
8 reasonably necessary for this litigation and who have signed the "Acknowledgment and
9 Agreement to Be Bound" (Exhibit A);

10 (d) the court and its personnel;

11 (e) court reporters and their staff,

12 (f) professional jury or trial consultants, mock jurors,¹ and Professional Vendors to
13 whom disclosure is reasonably necessary for this litigation and who have signed the
14 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

15 (g) during their depositions, witnesses in the action to whom disclosure is
16 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
17 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court.

18 (h) the author or recipient of a document containing the information or a custodian
19 or other person who otherwise possessed or knew the information.

20 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" and
21 "HIGHLY CONFIDENTIAL – SOURCE CODE" Information or Items. Unless otherwise ordered
22 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
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24
25 ¹ To the extent reasonably necessary to conduct mock trials or focus group exercises,
26 "CONFIDENTIAL" information or items may be shown to mock trial or focus group participants
27 provided: (a) the participants are required to sign a confidentiality agreement to participate in the
28 study; (b) the "CONFIDENTIAL" information or items only displayed in presentation materials
by counsel and not provided in any material given to the participants as a handout; and (c) the
participants are not permitted to retain any materials from the exercise, other than a copy of their
confidentiality agreement and documents related to payment for their participation in the exercise.

1 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or
2 “HIGHLY CONFIDENTIAL – SOURCE CODE” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
4 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
5 information for this litigation;

6 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
7 for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound”
8 (Exhibit A), and (3) as to whom the procedures set forth in Section 7.4(a), below, have been
9 followed;

10 (c) the court and its personnel;

11 (d) court reporters and their staff,

12 (e) professional jury or trial consultants, mock jurors,² and Professional Vendors to
13 whom disclosure is reasonably necessary for this litigation and who have signed the
14 “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

15 (f) the author or recipient of a document containing the information or a custodian
16 or other person who otherwise possessed or knew the information.

17 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and “HIGHLY CONFIDENTIAL – SOURCE
19 CODE” Information or Items to Experts.

20 (a) Unless otherwise ordered by the court or agreed to in writing by the Designating
21 Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item
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23 ² To the extent reasonably necessary to conduct mock trials or focus group exercises,
24 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information or items may be
25 shown to mock trial or focus group participants provided: (a) the participants are required to sign a
26 confidentiality agreement to participate in the study; (b) the “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY” information or items only displayed in presentation materials by
28 counsel and not provided in any material given to the participants as a handout; and (c) the
participants are not permitted to retain any materials from the exercise, other than a copy of their
confidentiality agreement and documents related to payment for their participation in the exercise.
Information and items designated “HIGHLY CONFIDENTIAL – SOURCE CODE” may not be
disclosed to mock trial or focus group participants.

1 that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or
2 “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to Section 7.3(c) first must make a
3 written request to the Designating Party that (1) identifies the general categories of “HIGHLY
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE
5 CODE” information that the Receiving Party seeks permission to disclose to the Expert, (2) sets
6 forth the full name of the Expert and the city and state of his or her primary residence, (3) attaches
7 a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s), (5) identifies
8 each person or entity from whom the Expert has received compensation or funding for work in his
9 or her areas of expertise or to whom the expert has provided professional services, including in
10 connection with a litigation, at any time during the preceding five years, and (6) identifies (by
11 name and number of the case, filing date, and location of court) any litigation in connection with
12 which the Expert has offered expert testimony, including through a declaration, report, or
13 testimony at a deposition or trial, during the preceding five years. If the Expert believes any of
14 this information is subject to a confidentiality obligation to a third-party, then the Expert should
15 provide whatever information the Expert believes can be disclosed without violating any
16 confidentiality agreements, and the Party seeking to disclose to the Expert shall be available to
17 meet and confer with the Designating Party regarding any such engagement.

18 (b) A Party that makes a request and provides the information specified in the
19 preceding respective paragraphs may disclose the subject Protected Material to the identified
20 Expert unless, within 14 days of delivering the request, the Party receives a written objection from
21 the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

22 (c) A Party that receives a timely written objection must meet and confer with the
23 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
24 agreement within seven days of the written objection. If no agreement is reached, the Party
25 seeking to make the disclosure to the Expert may file a motion as provided in Civil Local Rule 7
26 (and in compliance with Civil Local Rule 79-5, if applicable) seeking permission from the court to
27 do so. Any such motion must describe the circumstances with specificity, set forth in detail the
28 reasons why the disclosure to the Expert is reasonably necessary, assess the risk of harm that the

1 disclosure would entail, and suggest any additional means that could be used to reduce that risk. In
2 addition, any such motion must be accompanied by a competent declaration describing the parties'
3 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and confer
4 discussions) and setting forth the reasons advanced by the Designating Party for its refusal to
5 approve the disclosure.

6 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden
7 of proving that the risk of harm that the disclosure would entail (under the safeguards proposed)
8 outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

9 **8. PROSECUTION/LICENSING BAR**

10 Absent written consent from the Producing Party, any attorney who either (i) personally
11 reviews "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY
12 CONFIDENTIAL – SOURCE CODE" information or (ii) learns of "HIGHLY CONFIDENTIAL
13 – ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE"
14 information directly or indirectly from someone else who personally reviewed such information,
15 shall not be involved in (i) the prosecution of patents or patent applications relating to MEMS-
16 based oscillators or resonators or (ii) the licensing of patents or patent applications relating to
17 MEMS-based oscillators or resonators adverse to the Producing Party.

18 For purposes of this Section 8, "prosecution" includes directly or indirectly drafting,
19 amending, advising, or otherwise affecting the scope or maintenance of patent claims. To avoid
20 any doubt, "prosecution" as used in this Section 8 does not apply to the participation in
21 proceedings challenging a patent before a domestic or foreign agency, including post-grant
22 proceedings (such as an *inter partes* review) involving the patents asserted in this matter.

23 The Parties expressly agree that the Prosecution/Licensing Bar set forth herein shall be
24 personal to any attorney who reviews (or learns of directly or indirectly from one who personally
25 reviewed) material subjecting him/her to the Prosecution/Licensing Bar and shall not be imputed
26 to any other persons or attorneys at the attorney's law firm or representative's organization.
27 Nothing in this Section 8 shall prevent any attorney from sending non-confidential prior art to an
28 attorney involved in patent prosecution for purposes of ensuring that such prior art is submitted to

1 the U.S. Patent and Trademark Office (or any similar agency of a foreign government) to assist a
2 patent applicant in complying with its duty of candor. This Prosecution/Licensing Bar shall begin
3 when access to “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY
4 CONFIDENTIAL – SOURCE CODE” information is first reviewed or learned by the affected
5 individual and shall end two (2) years after final termination of this action.

6 **9. SOURCE CODE**

7 (a) To the extent production of source code becomes necessary in this case, a
8 Producing Party may designate source code as “HIGHLY CONFIDENTIAL – SOURCE CODE”
9 if it comprises or includes materials described in Section 2.8.

10 (b) Protected Material designated as “HIGHLY CONFIDENTIAL – SOURCE CODE”
11 shall be subject to all of the protections afforded to “HIGHLY CONFIDENTIAL –
12 ATTORNEYS’ EYES ONLY” information, including the Prosecution/Licensing Bar set forth in
13 Section 8, and may be disclosed as set forth in Sections 7.3 and 7.4.

14 (c) Any source code produced in discovery shall be made available for inspection, in a
15 format allowing it to be reasonably reviewed and searched, during normal business hours or at
16 other mutually agreeable times, at an office of the Producing Party’s counsel or another mutually
17 agreed upon location. The source code shall be made available for inspection on a secured
18 computer in a secured room without Internet or network access to other computers, and the
19 Receiving Party shall not copy, remove, or otherwise transfer any portion of the source code onto
20 any recordable media or recordable device. If the Receiving Party reasonably believes that it
21 requires an additional computer to conduct its review, the Receiving Party may request an
22 additional computer, which the Producing Party will use its best efforts to make available within
23 fourteen (14) business days of receiving notice. The Producing Party shall install tools that are
24 sufficient for viewing and searching the code produced, on the platform produced, if such tools
25 exist and are generally commercially available. The Receiving Party’s outside counsel and/or
26 experts may request that specific commercially-available software tools for viewing and searching
27 source code be installed on the secured computer, provided, however, that the Producing Party
28 approves such software tools, which approval shall not be unreasonably withheld or delayed. The

1 source code files shall not be provided for inspection as compressed files (e.g. .zip files). The
2 Receiving Party's outside counsel and/or expert shall be entitled to take notes relating to the
3 source code. The Receiving Party's representative(s) may copy no more than 10 lines of source
4 code from every 20 consecutive lines of source code into his or her notes. Any notes relating to the
5 source code will be treated as "Highly Confidential – Source Code." The Producing Party may
6 visually monitor, from a reasonable distance, the activities of the Receiving Party's representatives
7 during any source code review, but only to ensure that there is no unauthorized recording,
8 copying, or transmission of the source code, and may not review any notes or other work product
9 of the individuals reviewing the source code.

10 (d) The Receiving Party may request paper copies of limited portions of source code
11 that are reasonably necessary for the preparation of court filings, pleadings, expert reports, or other
12 papers, or for deposition or trial, but shall not request paper copies for the purposes of reviewing
13 the source code other than electronically on the secured computer in the secured room as set forth
14 in paragraph (c) in the first instance, as the parties acknowledge and agree that the purpose of the
15 protections herein would be frustrated by printing portions of source code for initial review and
16 analysis elsewhere. The Receiving Party need not print more than 1500 (fifteen hundred) total
17 pages during the course of this case unless the Receiving Party can show good cause for additional
18 pages. However, in the case of design, layout, or manufacturing diagrams, for purposes of page-
19 counting, a single design, layout, or diagram with multiple layers of hierarchy shall count for no
20 more than 5 contiguous pages even if the actual printed pages are greater because of the need to
21 print hierarchically organized sub-diagrams and/or to physically print a single view on multiple
22 pages to make the design, layout, or diagram legible in a printed format. The Producing Party
23 shall provide all such source code in paper form including bates numbers and the label "HIGHLY
24 CONFIDENTIAL - SOURCE CODE." The Producing Party shall, where applicable, label each
25 printed file with path, file name, and line numbers. The printed pages shall constitute part of the
26 source code produced by the Producing Party in the Action. At the Receiving Party's request, up
27 to two (2) additional sets (or subsets) of printed Source Code may be requested and provided by
28

1 the Producing Party in a timely fashion. To the extent the Receiving Party seeks to make
2 additional sets of printed Source Code, the Parties shall meet and confer in good faith.

3 (e) If the Producing Party objects to the request for paper copies for any reason, the
4 Producing Party shall make such objection known to the Receiving Party within three (3) business
5 days of the request. Print requests that exceed 50 contiguous pages of a specific software or
6 hardware release (operating systems and applications) shall be presumed excessive and not done
7 for a permitted purpose, which can be rebutted by a showing of good cause for the request by the
8 Receiving Party. If, after meeting and conferring, the Producing Party and the Receiving Party
9 cannot resolve the objection, the Receiving Party may seek resolution from the Court as to
10 whether the requested paper copies are reasonably necessary to any case preparation activity in
11 this matter, such as for the preparation of Court filings, pleadings, expert reports, or other papers,
12 or for deposition or trial. The burden shall be on the Receiving Party to demonstrate that such
13 printed portions are no more than is reasonably necessary for a permitted purpose and not merely
14 printed for the purposes of review and analysis elsewhere.

15 (f) The Receiving Party shall maintain a record of any individual who has inspected
16 any portion of the printed Source Code in electronic or paper form. The Receiving Party shall
17 maintain all paper copies of any printed portions of the source code in a secured, locked area when
18 not in use. The Receiving Party shall not create any electronic or other images of the paper copies
19 and shall not convert any of the information contained in the paper copies into any electronic
20 format. The Receiving Party shall only make additional paper copies if such additional copies are
21 (1) necessary to prepare court filings, pleadings, or other papers (including a testifying expert's
22 expert report), (2) necessary for deposition, or (3) otherwise necessary for the preparation of its
23 case. Any paper copies used during a deposition shall be retrieved by the Producing Party at the
24 end of each day and must not be given to or left with a court reporter or any other unauthorized
25 individual.

1 **10. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
2 **OTHER LITIGATION**

3 If a Party is served with a subpoena or a court order issued in other litigation that compels
4 disclosure of any information or items designated in this action as “CONFIDENTIAL” or
5 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification shall include
7 a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or order to issue
9 in the other litigation that some or all of the material covered by the subpoena or order is subject to
10 this Protective Order. Such notification shall include a copy of this Stipulated Protective Order;
11 and

12 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
13 Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with the subpoena
15 or court order shall not produce any information designated in this action as “CONFIDENTIAL”
16 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a determination by the
17 court from which the subpoena or order issued, unless the Party has obtained the Designating
18 Party’s permission. The Designating Party shall bear the burden and expense of seeking protection
19 in that court of its confidential material – and nothing in these provisions should be construed as
20 authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from
21 another court.

22 **11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
23 **PRODUCED IN THIS LITIGATION**

24 (a) The terms of this Order are applicable to information produced by a Non-Party in this
25 action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
26 EYES ONLY”. Such information produced by Non-Parties in connection with this litigation is
27 protected by the remedies and relief provided by this Order. Nothing in these provisions should be
28 construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

1. promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific description of the information requested; and

3. make the information requested available for inspection by the Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

12. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

1 **13. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
2 **PROTECTED MATERIAL**

3 When a Producing Party gives notice to Receiving Parties that certain inadvertently
4 produced material is subject to a claim of privilege or other protection, the obligations of the
5 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B).

6 **14. MISCELLANEOUS**

7 14.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
8 seek its modification by the court in the future.

9 14.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
10 Order no Party waives any right it otherwise would have to object to disclosing or producing any
11 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
12 Party waives any right to object on any ground to use in evidence of any of the material covered
13 by this Protective Order.

14 14.3 Export Control. Disclosure of Protected Material shall be subject to all applicable
15 laws and regulations relating to the export of technical data contained in such Protected Material,
16 including the release of such technical data to foreign persons or nationals in the United States or
17 elsewhere. The Producing Party shall be responsible for identifying any such controlled technical
18 data, and the Receiving Party shall take measures necessary to ensure compliance.

19 14.4 Filing Protected Material. Without written permission from the Designating Party
20 or a court order secured after appropriate notice to all interested persons, a Party may not file in
21 the public record in this action any Protected Material. A Party that seeks to file under seal any
22 Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
23 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
24 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request
25 establishing that the Protected Material at issue is privileged, protectable as a trade secret, or
26 otherwise entitled to protection under the law. If a Receiving Party's request to file Protected
27 Material under seal pursuant to Civil Local Rule 79-5(e) is denied by the court, then the Receiving
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Party may file the Protected Material in the public record pursuant to Civil Local Rule 79-5(e)(2) unless otherwise instructed by the court.

15. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in Section 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: July 26, 2019

Dated: July 26, 2019

FISH & RICHARDSON P.C.

PILLSBURY WINTHROP SHAW PITTMAN LLP

/s/ Meghana RaoRane

/s/ Matthew W. Hindman

Meghana RaoRane

Matthew W. Hindman

Attorneys for Plaintiff

Attorneys for Defendant

VTT TECHNICAL RESEARCH CENTRE
OF FINLAND LTD.

SITIME CORPORATION

1 I hereby attest under penalty of perjury that concurrence in the filing of this document has
2 been obtained from counsel for Defendant.

3 Dated: July 26, 2019

FISH & RICHARDSON P.C.

4
5 By: /s/ Meghana RaoRane
6 Meghana RaoRane
7

8 PURSUANT TO STIPULATION, IT IS SO ORDERED.
9

10 Dated: July 26, 2019


11 The Hon. Yvonne Gonzalez Rogers
12 United States ~~Magistrate~~ **District** Judge
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EXHIBIT A: ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, [INSERT NAME], residing at [INSERT ADDRESS], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on [DATE] in the case of VTT TECHNICAL RESEARCH CENTRE OF FINLAND LTD. v. SITIME CORPORATION, Case No. 4:19-cv-1174. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint [INSERT NAME] of [INSERT ADDRESS AND TELEPHONE NUMBER] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]